

Via Facsimile & First Class Mail 414-272-8191

'JAN 1 2 2012

Robert H. Friebert, Esq. Christopher M. Meuler, Esq. Friebert, Finerty, & St. John, S.C. 330 East Kilbourn Avenue Milwarkee, WI 53202

RE: MUR 6515
Robert Baird
Michael Drury
Richard Gale
John Gee
Troy Haase
Lance Hanson
Michael Woodzioka

Dear Messrs. Friebert and Meuler:

On August 5, 2011, Professional Fire Fighters of Wisconsin ("PFFW") notified the Federal Election Commission that PFFW, and former PFFW Executive Board officers, Tracy Aldrich, Robert Baird, Michael Drury, Richard Gale, John Gee, Troy Haase, Lance Hanson, Patrick Kilbane, Len Orlando, Ann Watzka f/k/a Ann Peggs and Michael Woodzicka, may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with activity between 2002-2010.

After reviewing the snimission, the Commission found reason to believe, on December 13, 2011, that each of the above-named Executive Board efficers knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Act, and 11 C.F.R. §§ 110.4(b)(ii), (iii) and 114.2(e) of the Commission's regulations in connection with their reported 2002 to 2008 activity. The Commission also found reason to believe that PFFW Executive Board officers Robert G. Baird, John C. Gee and Lance A. Hanson violated 2 U.S.C. §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii), (iii) and 114.2(e) in connection with their reported 2009 and 2010 activity, and that Messrs. Baird, Gee and Hanson's 2009-2010 violations had been knowing and willful. Enclosed are the Factual and Legal Analysis that sat forth the basis for the Commission's determination.

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Please note that PFFW and its former Executive Board officers have a legal obligation to preserve all documents, records and materials relating to this matter until notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

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In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. You may submit a written request for relevant information gathered by the Commission in the course of its investigation of this matter. See Agency Procedure for Disclosure of Documents and Information in the Enforcement Process, 76 Fed. Reg. 34986 (June 15, 2011).

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We look forward to your response.

On behalf of the Commission,

Conori C. H.

Caroline C. Hunter

Chair

Enclosures
Factual and Legal Analyses

ı	FACTUAL AND LEGAL ANALYSIS
2 3	MUR 6515
5	RESPONDENT: Robert G. Baird
6 7	I. <u>INTRODUCTION</u>
8	This matter originated with a sua sponte submission made to the Federal Election
9	Commission ("the Commission") by the Professional Fire Fighters of Wisconsin ("PFFW") and
10	certain individuals who served as PFFW Executive Beard officers at different points between
11	2002 and 2010 (collectively referred to as "Respondents"). For the reasons act forth below, the
12	Commission found that there was reason to believe that the Professional Fire Fighters of
13	Wisconsin Executive Board officer Robert G. Baird knowingly and willfully violated 2 U.S.C.
14	§§ 441b(a) and 441f; and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) with respect to federal
15	contributions by PFFW from 2002 through 2008.
16	II. <u>FACTUAL SUMMARY</u>
17	PFFW, the statewide affiliate of the International Association of Fire Fighters ("IAFF"),
18	reimbursed eleven of its officers for \$18,263.34 in contributions to IAFF's separate segregated
19	fund, International Association of Firefighters Interested in Registration and Education PAC
20	("FIREPAC") between 2002-2010.
21	PFFW zeimbursed the FFREPAC contributions in two aways. Between 2002 and 2002,
22	with the authorization of the full Executive Board, PFFW reimbursed eleven officers for
23	\$16,888.34 in FIREPAC contributions via claims they submitted for expenses related to fictitious
24	"legislative meetings" in Madison, Wisconsin. Submission at 6-7. In 2009 and 2010, after the
25	fictitious "legislative meetings" scheme ended, without the knowledge of the full Executive

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- Board, PFFW reimbursed three officers for \$1,375 in FIREPAC contributions via claims they
- 2 submitted for expenses related to conference registration fees that they never actually paid.
- 3 PFFW represents that it has 1) obtained repayments of all known amounts of the
- 4 unlawfully reimbursed contributions; 2) notified its regional caucus and local unions about the
- 5 improper expense payment practices; 3) notified FIREPAC of the unlawful reimbursements; and
- 6 4) obtained the resignations of remaining Executive Board officers who received unlawful
- 7 contribution reimbursements.

A. The 2002-2008 Reimbursements

PFFW is governed by an eleven officer Executive Board, all of whom are full-time firefighters. The officers are elected to staggered three-year terms at annual IAFF/PFFW state conventions. Submission at 3. Robert G. Baird was a PFFW Executive Board officer from 1999 to 2011. During a January 2002 leadership retreat, PFFW's then existing Executive Board encouraged its officers to increase their FIREPAC contributions to a level that would also allow them to attend the IAFF annual conference without paying a registration fee. *Id.* When some Executive Board officers expressed concern about their ability to afford larger contributions to FIREPAC, the Executive Board agreed that "any officer who made such a contribution in order to attend the legislative conference would be able to submit an expense statement to the FFFW for two administrative days to be characterized as a 'legislative meeting' in Madison [Wisconsin]." It at 6-7. PFFW states that the "legislative meeting" contrivance was adopted in order to reduce, if not eliminate, the financial burden to Board members who made the larger contributions to FIREPAC instead of paying the registration fee to IAFF. *Id.* at 7. During similar retreats held during January or February of each successive year - with the exception of

Robert G. Baird was an Executive Board officer at the time the unlawful reimbursement scheme was created.

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- 1 2004 when the topic was apparently not raised PFFW designated similar "legislative meeting"
- 2 dates as a vehicle for the reimbursement of that year's FIREPAC contributions by Executive
- 3 Board officers.² Id. at 7.
- 4 PFFW asserts that the 2002 retreat was the first and last time that its Executive Board
- 5 discussed this repayment practice in any depth, and the practice continued until 2008, "without
- 6 legal review or operational analysis." Submission at 7. According to the declarations of the
- 7 Executive Beard officers, none of them considered the legisl ramificutions of the seimbursement
- 8 program under the Act or other laws, and most, if not all, of those who participated in the 2002
- 9 retreat had not seen IAFF or FIREPAC materials advising not to seek reimbursement for
- 10 contributions in connection with attendance at the legislative conference. *Id.* at 7; see also
- 11 Declarations.

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PFFW argues that the 2002 agreement was not the product of any pre-retreat planning by any officer and there was no specific discussion about whether such practices complied with applicable laws or IAFF policies. Submission at 14. Nevertheless, all of the PFFW officers acknowledge that they made false claims for the reimbursement of expenses from fictitious "legislative meetings" as a means to obtain reimbursement of FIREPAC contributions.

In 2808, Michael Wondzicka replaned Richard Gale as PFFW President. Stremkssion at 7. In preparation for the 2009 retroat, Woodzicka reviewed PFFW's practices and procedures, as well as IAFF legislative conference registration materials stating that contributions to FIREPAC could not be reimbursed with union funds. Submission at 8; see also Woodzicka Declaration at

21 ¶ 13. Woodzicka stopped the practice of making reimbursements for non-existent meetings

Although there were no designated "legislative meeting" dates in 2004, and therefore no reimbursements for contributions, the omission was noted at the 2005 retreat and the officers agreed to designate three days, rather than the customary two days, of "legislative meetings" in 2005 to compensate for the 2004 omission. Id. at 7.

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- because it was an "unwritten practice" and he believed that "there should be clear policies to
- 2 ensure that Executive Board members were fairly reimbursed for legitimate expenses that they
- actually incurred on the PFFW's behalf." Id. Although Woodzicka ended the practice of
- 4 scheduling fictitious legislative meetings in 2008, PFFW did not take any corrective action or
- 5 consider self-reporting the improper reimbursements for more than a year.

B. 2009-2010 Reimbursements

During the neurse of preparing this Submission, PFFW learned that it also had reimbursed three Executive Board efficers — Baird, Gee, and Hanson — for \$1,375 in FIREPAC contributions made in 2009-2010. Submission at 10. Baird, Gee, and Hanson state that they made \$500 contributions each to FIREPAC in March 2009 and February 2010 in connection with the 2009 and 2010 IAFF legislative conferences. By making the \$500 contributions to FIREPAC, IAFF waived their registration fees. However, Baird, Gee, and Hanson submitted expense claims requesting reimbursement of the conference registration fees they had not actually paid in order to be reimbursed for their contributions. *Id.* at 10-11; *see also* Baird, Gee, and Hanson Declarations. PFFW admits that it effectively reimbursed these 2009-2010 FIREPAC contributions, but asserts that no Executive Beard officer, other than the three officers submitting the claims, was aware that the \$425 and \$475 registration fees had not been paid. *Id.* at 2, 10-11.

C. Corrective Actions

In January 2010, Joseph Conway, an IAFF Vice-President, advised PFFW that he had learned of PFFW's improper reimbursements of FIREPAC contributions, and he asked what corrective actions PFFW would take. Submission at 16. In March 2010, PFFW consulted with counsel and established a "Special Committee" to review the expense payment practices and

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- recommend a course of action. Id. After the Special Committee concluded its review, PFFW
- 2 sent letters on April 10, 2010, to each of the eleven past and current Executive Board officers
- 3 itemizing the amounts known to have been reimbursed between 2004 and 2008, inviting any
- 4 corrections, asking for estimates of reimbursements between 2002 and 2003, and requesting
- 5 repayment of all contribution reimbursements. 3 Id. at 9; see also Submission Attachments. All
- 6 eleven Executive Board officers repaid at least the specific sums requested, and some paid
- 7 additional anguests to reflect 2002 and 2003 contribution reimbursements. 4 Int.

D. Summery

PFFW's payments to reimburse Executive Board officers for FIREPAC contributions are

summarized below.

Executive Board Officers	Estimated Officer Reimbarsement Amts. for 2002 and 2003	Officer Reimbursement Amts, for 2005-2008	Officer Reimbursement Amts. for 2009-2010	Total amt. repaid by Officers for 2002- 2010
Aldrich	.\$0	\$1,027.70	n/a	\$1,027.70
Druty	\$83'7.71	7 \$2,162.29	\$0	\$3,000
9 Yeste	N 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8	54,863		
Gee	\$443.66	\$1,956.34	\$475	\$2,875
Spans			第1111 	
Hanson	\$131.11	\$2,068.89	\$475	\$2,675
\$ Abrops				
Orlando.	n/a	\$678.45	n/a	\$678.45
	0.5		€ 45	
Woodzicka	\$56.53	\$1,100	\$0	\$1,156.53
TOTALS				
	\$2,497.42	\$14,391.02	\$1,375	\$18,263.34

³ PFFW is unable to provide the exact reimbursement figures for 2002 and 2003 because in 2009, it shredded its pre-2005 financial records, including the expense statements submitted by PFFW officers. *Id.* at 8. While PFFW has the electronic Quickbook files for those years, they only record payments and not explanations of the purposes of payments to officers or others. *Id.* PFFW asserts that it shredded documents on the advice of its accountant, the shredding had nothing to do with the expense payment practice, and it happened before the internal review. *Id.*

⁴ PPFW initially requested repayments from officers toming \$14,193 but received a total of \$18,263.44 in repayments from the middle of the second and the second officers who used other means to cause PFFW to reimbure FIREPAC apprically and in 2009-2010.

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III. <u>LEGAL ANALYSIS</u>

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2 The Federal Election Campaign Act of 1971, as amended ("Act") prohibits a labor 3 organization from making a contribution in connection with any election and any officer of any 4 labor organization from consenting to any contribution by the labor organization. 2 U.S.C. 5 § 441b(a) and 11 C.F.R. 114.2(e). The Act further provides that "no person shall make a contribution in the name of another person." 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(i). The 6 7 promibition extends to knowlingly permitting one's name to be used to effect the making of 8 contribution is the name of another or knowingly helping or assisting any person in making a 9 contribution in the name of another. 11 C.F.R. § 110.4(b)(ii) and)(iii). The Commission's 10 Explanation and Justification ("E&J") states that "knowingly helping or assisting" applies to 11 "those who initiate or instigate or have some significant participation in a plan or scheme to 12 make a contribution in the name of another " E&J for 11 C.F.R. § 110.4 at 54 Fed. Reg. 13 34,105 (Aug. 17, 1989). The Act also addresses violations of law that are knowing and willful. See 2 U.S.C. 14 15 §§ 437g(a)(5)(B) and 437g(d). The knowing and willful standard requires knowledge that one is 16 violating the law. Federal Election Commission v. John A. Dramesi for Congress Committee, 17 640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established "by 18 proof that the defendant acted deliberately and with knowledge that the representation was false," United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). Evidence does not have to 19 20 show that the defendant had a specific knowledge of the regulations; an inference of knowing 21 and willful conduct may be drawn from the defendant's scheme to disguise the source of funds 22 used in illegal activities. Id. at 213-15.

A. PFFW & Executive Board Officers/Conduits

The expense reimbursement scheme that PFFW began in 2002 designated two days per year for "legislative meetings" that never took place and allowed the Executive Board officers to be reimbursed for their FIREPAC contributions by claiming expenses incurred in connection with these fictional meetings. Submission at 6-7. Between 2002 and 2008, PFFW disbursed \$16,888.34 to reimburse FIREPAC contributions. *Id.* at 3. In addition, between 2009 and 2016, PFFW disbursed \$1,375 to reimburse FIREPAC contributions. *Id.* at 10-12.

The individual respondents were officers of PFFW who consented to the use of prohibited labor union treasury funds to reimburse FIRRPAC contributions, allowed their names to be used to make these contributions, and knowingly helped or assisted in the making of contributions in the names of others. While the Commission frequently takes no action as to subordinate conduits responding to pressure from their employer/superior, the Commission has pursued officers who consented to and assisted in the use of corporate or union funds to make reimbursements. See MUR 5357 (Centex) (the Commission approved reason to believe findings against the corporation and the officers for making and consenting to the use of prohibited funds to make contributions in the names of others).

Accordingly, the Commission finand reason to believe that Robust G. Baird violated 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) by consenting to the use of prohibited labor union treasury funds to make contributions in the names of others, by permitting his/her name to be used to make contributions in the name of another, and by

There is no information that these officers were coerced into agreeing to this scheme. In fact, it appears that there were some Executive Board officers who never participated in the reimbursament scheme. The Submission status that at different times between 2002 and 2008, there were four additional Executive Board officers who did not seek reimbursement payments under the expense payment practice. Submission at 16. However, the Submission does not identify these individuals and is silent as to whether they consented to the use of the union's treasury funds to make contributions in the name of another. *Id.* Given the circumstances, including the impending statute of limitations, the Commission declined to take any action as to these four unnamed Executive Board officers.

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1 knowingly helping or assisting the PFFW in the making of contributions in the names of others.

B. Knowing and Willful

1. 2002 through 2008 Reimbursement Scheme

4 The individual Executive Board officers concealed the 2002-2008 reimbursements by 5 authorizing the officers to claim expenses for fictitious "legislative meetings." The individual 6 officers claim there was no pre-planning or discussion about whether such practices would 7 comply with the Act or IAFF policy. But, the Executive Board went to considerable lengths to 8 conceal the reimbursements over a number of years by allowing its officers to be mimbursed for 9 expense vouchers they knew were false. PFFW acknowledges that the Executive Board had the 10 option of revising its existing policies to provide for legitimate reimbursement for the officers' 11 time and efforts. Submission at 7. Instead, it chose a false method to reimburse itself for the 12 FIREPAC contributions. Thus, even if Respondents were not aware of the Act's specific 13 prohibitions, Respondents' use of fictitious "legislative meetings" to conceal the reimbursements 14 strongly suggests they knew that the reimbursements were improper. United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). 15 15 Accordingly, the Commission found reason to believe that Robert G. Baird's violations 2 U.S.C. §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii) - (iii) and 114.2(e) from 2002 17 to 2008 were knowing and willful. 13

2. 2009 and 2010 Contribution Reimbursements

In 2009 and 2010, three Executive Board officers, including Robert G. Baird, received contribution reimbursements after PFFW had ended its 2002-2008 expense payment practice.

These individuals caused PFFW to reimburse their FIREPAC contributions by claiming to have paid IAFF conference registration fees that had actually been waived.

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1 As Executive Board officers, these individuals caused PFFW to use prohibited labor 2 union general treasury funds to make contributions in the names of others and consented to the 3 use of those prohibited funds to make contributions in the names of others. In addition, these 4 Executive Board officers permitted their names to be used to make contributions in the names of 5 others and knowingly helped or assisted PFFW to make those contributions in the names of 6 others. 7 PFFW's decision in late 2008 to stop the "legislative meetings" reimbursement scheme 8 should have put these three officers on patice that the FIREPAC contributions could not be . 9 reimbursed. Although the three PFFW Executive Board officers did not pay the fees, they 10 appear to have believed that they were entitled to reimbursement of registration fees IAFF 11 waived as a result of the FIREPAC contributions nominally made from their personal funds. PFFW acknowledges that its payment of these claims resulted in the reimbursement of the 12 13 FIREPAC contributions. Submission at 10 and attached Declarations. The three officers have 14 offered no reasonable explanation for their conduct. See Declarations. 15 Accordingly, the Commission found that Robert G. Baird's violations of 2 U.S.C. 16 §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii) - (iii) and 114.2(e) for the 2009 contribution 17 reimbursement was knowing and willful.

1		FACTUAL AND LEGAL ANALYSIS
3		MUR 6515
5	RESPONDENT:	Michael Drury
6 7	I. <u>INTRODU</u>	<u>CTION</u>
8	This matter	originated with a sua sponte submission made to the Federal Election
9	Commission ("the C	Commission") by the Professional Fire Fighters of Wisconsin ("PPFW") and
10	certain individuals v	who served as PFFW Executive Board officers at different points between
11	2002 and 2010 (not	ectively referred to as "Respondents"). For the reasons set forth below, the
12	Commission found	that there was reason to believe that the Professional Fire Fighters of
13	Wisconsin Executiv	e Board officer Michael Drury knowingly and willfully violated 2 U.S.C.
14	§§ 441b(a) and 441	f; and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) with respect to federal
15	contributions by PF	FW from 2002 through 2008.
16	II. <u>FACTUAL</u>	SUMMARY
17	PFFW, the s	statewide affiliate of the International Association of Fire Fighters ("IAFF"),
18	reimbursed eleven	of its officers for \$18,263.34 in contributions to IAFF's separate segregated
19	fund, International	Association of Firefighters Interested in Registration and Education PAC
20	("FIREPAC") betw	eum 2002-2010.
21	PFI'W reim	bursed the FIREPAC contributions in two ways. Between 2002 and 2008,
22	with the authorizati	on of the full Executive Board, PFFW reimbursed eleven officers for
23	\$16,888.34 in FIRE	PAC contributions via claims they submitted for expenses related to fictitious
24	"legislative meeting	gs" in Madison, Wisconsin. Submission at 6-7. In 2009 and 2010, after the
25	fictitious "legislativ	re meetings" scheme ended, without the knowledge of the full Executive

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- 1 Board, PFFW reimbursed three officers for \$1,375 in FIREPAC contributions via claims they
- 2 submitted for expenses related to conference registration fees that they never actually paid.
- 3 PFFW represents that it has 1) obtained repayments of all known amounts of the
- 4 unlawfully reimbursed contributions; 2) notified its regional caucus and local unions about the
- 5 improper expense payment practices; 3) notified FIREPAC of the unlawful reimbursements; and
- 6 4) obtained the resignations of remaining Executive Board officers who received unlawful
- 7 contribution reimburgements.

A. The 2002-2008 Reimbursements

PFFW is governed by an eleven officer Executive Board, all of whom are full-time firefighters. The officers are elected to staggered three-year terms at annual IAFF/PFFW state conventions. Submission at 3. Michael Drury was a PFFW Executive Board officer from 1996 to 2011. During a January 2002 leadership retreat, PFFW's then existing Executive Board encouraged its officers to increase their FIREPAC contributions to a level that would also allow them to attend the IAFF annual conference without paying a registration fee. *Id.* When some Executive Board officers expressed concern about their ability to afford larger contributions to FIREPAC, the Executive Board agreed that "any officer who made such a contribution in order to attend the legislative conference would be able to submit an expresse sintement to the PFFW for two administrative days to be characterized as a 'legislative meeting' in Madison [Wisconsin]." Id. at 6-7. PFFW states that the "legislative meeting" contrivance was adopted in order to reduce, if not eliminate, the financial burden to Board members who made the larger contributions to FIREPAC instead of paying the registration fee to IAFF. *Id.* at 7. During similar retreats held during January or February of each successive year - with the exception of

¹ Michael Drury was an Executive Board officer at the time the unlawful reimbursement scheme was created.

- 1 2004 when the topic was apparently not raised PFFW designated similar "legislative meeting"
- 2 dates as a vehicle for the reimbursement of that year's FIREPAC contributions by Executive
- 3 Board officers.² Id. at 7.
- 4 PFFW asserts that the 2002 retreat was the first and last time that its Executive Board
- 5 discussed this repayment practice in any depth, and the practice continued until 2008, "without
- 6 legal review or operational analysis." Submission at 7. According to the declarations of the
- 7 Executive Board officers, mans of them considered rim legal ramifications of the reinformant
- 8 program under the Act or other laws, and most, if not all, of those who participated in the 2002
- 9 retreat had not seen IAFF or FIREPAC materials advising not to seek reimbursement for
- 10 contributions in connection with attendance at the legislative conference. Id. at 7; see also
- 11 Declarations.

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- PFFW argues that the 2002 agreement was not the product of any pre-retreat planning by any officer and there was no specific discussion about whether such practices complied with applicable laws or IAFF policies. Submission at 14. Nevertheless, all of the PFFW officers acknowledge that they made false claims for the reimbursement of expenses from fictitious "legislative meetings" as a means to obtain reimbursement of FIREPAC contributions.
- In 2008, Mishael Womizieka seplaned Richardi Gale as PFFW President. Submission at 7. In preparation for the 2009 retreat, Wandziaka roviewed PFFW's practices and procedures, as well as IAFF legislative conference registration materials stating that contributions to FIREPAC could not be reimbursed with union funds. Submission at 8; see also Woodzicka Declaration at

¶ 13. Woodzicka stopped the practice of making reimbursements for non-existent meetings

² Although there were no designated "legislative meeting" dates in 2004, and therefore no reimbursements for contributions, the omission was noted at the 2005 retreat and the officers agreed to designate three days, rather than

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- because it was an "unwritten practice" and he believed that "there should be clear policies to
- 2 ensure that Executive Board members were fairly reimbursed for legitimate expenses that they
- actually incurred on the PFFW's behalf." Id. Although Woodzicka ended the practice of
- 4 scheduling fictitious legislative meetings in 2008, PFFW did not take any corrective action or
- 5 consider self-reporting the improper reimbursements for more than a year.

B. Corrective Actions

In January 2019, Joseph Conway, an IAFF Vice-President, advised PFFW that he had learned of PFFW's improper reimbursements of FIREPAC contributions, and he asked what corrective actions PFFW would take. Submission at 16. In March 2010, PFFW consulted with counsel and established a "Special Committee" to review the expense payment practices and recommend a course of action. *Id.* After the Special Committee concluded its review, PFFW sent letters on April 10, 2010, to each of the eleven past and current Executive Board officers itemizing the amounts known to have been reimbursed between 2004 and 2008, inviting any corrections, asking for estimates of reimbursements between 2002 and 2003, and requesting repayment of all contribution reimbursements. ³ *Id.* at 9; *see also* Submission Attachments. All eleven Executive Board officers repaid at least the specific sums requested, and some paid additional amounts to reflect 2002 and 2003 contribution reimbursements. ⁴ *Id*

¹ PFFW is unable to provide the exact reimbursement figures for 2062 and 2003 because in 2009, it shredded its pre-2005 financial records, including the expense statements submitted by PFFW officers. *Id.* at 8. While PFFW has the electronic Quickbook files for those years, they only record payments and not explanations of the purposes of payments to officers or others. *Id.* PFFW asserts that it shredded documents on the advice of its accountant, the shredding had nothing to do with the expense payment practice, and it happened before the internal review. *Id.*

⁴ PFFW initially requested repayments from officers totaling \$14,193 but received a total of \$14,263.44 in repayments from these individuals. The increased sensent represents the sumbursement amounts totaling \$2,497.42 from individual Executive Brand officers with lust their own documentation or unitarize of reimburse costs during 2062 and 2003 plus \$1,375 from individual Executive Brand officers with used other means to cause PFFW to reimburse FIREPAC contributions made in 2009-2010.

C. Summary

PFFW's payments to reimburse Executive Board officers for FIREPAC contributions are

3 summarized below.

Executive Board Officers	Estimated Officer Reimbursement Amts. for 2003 and 2003	Officer Reimbursement Amts. for 2005-2008	Officer Reimbursement Amts. for 2009-2010	Total amt. repaid by Officers for 2002- 2010
Aldrich	3 D	\$1,027.70	n/a	\$1,027.70
Eng		\$ Jos. T		
Drury	\$837.71	\$2,162.29	\$0	\$3,000
		2 3845.65	i. 1981	! <u>\$1,</u> 95.00
Gee	\$443.66	\$1,956.34	\$475	\$2,875
######################################	[1] 1111 3865 \$777 111 (21)			
Hanson	\$131,11	\$2,068.89	\$475	\$2,675
& Climbe		J. 100	W. 15	
Orlando	n/a	\$678.45	n/a	\$678.45
			(<u>a)/51</u>	14 July 10 July 20
Woodzicka	\$56.53	\$1,100	\$0	. \$1,156.53
TOTALS				
	\$2,497.42	\$14,391.02	\$1,375	\$18,263.34

III. <u>LEGAL ANALYSIS</u>

The Federal Election Campaign Act of 1971, as amended ("Act") prohibits a labor organization from making a contribution in connection with any election and any officer of any labor organization from consenting to any contribution by the labor organization. 2 U.S.C. § 441b(a) and 11 C.F.R. 114.2(e). The Act further provides that "no person shall make a contribution in the name of another person." 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(i). The prohibition extends to knowingly permitting one's name to be used to effect the making of contribution in the name of another or knowingly helping or assisting any person in making a contribution in the name of another. 11 C.F.R. § 110.4(b)(ii) and)(iii). The Commission's Explanation and Justification ("E&J") states that "knowingly helping or assisting" applies to "those who initiate or instigate or have some significant participation in a plan or scheme to

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- 1 make a contribution in the name of another " E&J for 11 C.F.R. § 110.4 at 54 Fed. Reg.
- 2 34,105 (Aug. 17, 1989).
- The Act also addresses violations of law that are knowing and willful. See 2 U.S.C.
- 4 §§ 437g(a)(5)(B) and 437g(d). The knowing and willful standard requires knowledge that one is
- 5 violating the law. Federal Election Commission v. John A. Dramesi for Congress Committee.
- 6 640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established "by
- 7 proof that the defendant acted deliberately and with knowledge that the representation was
- 8 false." United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). Evidence does not have to
- 9 show that the defendant had a specific knowledge of the regulations; an inference of knowing
- and willful conduct may be drawn from the defendant's scheme to disguise the source of funds
- used in illegal activities. *Id.* at 213-15.

A. PFFW & Executive Board Officers/Conduits

- 13 The expense reimbursement scheme that PFFW began in 2002 designated two days per
- 14 year for "legislative meetings" that never took place and allowed the Executive Board officers to
- be reimbursed for their FIREPAC contributions by claiming expenses incurred in connection
- 16 with these fictional meetings. Submission at 6-7. Between 2002 and 2008, PFFW disbursed
- 17 \$16,888.34 to suimburge FIREPAC contributions. Id. at 3. In addition, between 2009 and 2010,
- 18 PFFW disbursed \$1,375 to animburse FIREPAC contributions. Id., at 10-12.
- 19 The individual respondents were officers of PFFW who consented to the use of
- 20 prohibited labor union treasury funds to reimburse FIREPAC contributions, allowed their names
- 21 to be used to make these contributions, and knowingly helped or assisted in the making of
- 22 contributions in the names of others. While the Commission frequently takes no action as to

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- 1 subordinate conduits responding to pressure from their employer/superior, the Commission has
- 2 pursued officers who consented to and assisted in the use of corporate or union funds to make
- 3 reimbursements. 5 See MUR 5357 (Centex) (the Commission approved reason to believe
- 4 findings against the corporation and the officers for making and consenting to the use of
- 5 prohibited funds to make contributions in the names of others).

6 Accordingly, the Commission found reason to believe that Michael Drury violated

7 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) by consenting to

the use of problinized labor union transary funds to make unatributions in the marges of others, by

permitting his/her name to be used to make contributions in the name of another, and by

knowingly helping or assisting the PFFW in the making of contributions in the names of others.

B. Knowing and Willful

1. 2002 through 2008 Reimbursement Scheme

The individual Executive Board officers concealed the 2002-2008 reimbursements by authorizing the officers to claim expenses for fictitious "legislative meetings." The individual officers claim there was no pre-planning or discussion about whether such practices would comply with the Act or IAFF policy. But, the Executive Beard wunt to considerable lengths to consceal the mimbursuments over a number of years by allowing its officers to be reimbursed for expense vouchers they knew were falsa. PFFW asknowledges that the Executive Beard had the option of revising its existing policies to provide for legitimate reimbursement for the officers' time and efforts. Submission at 7. Instead, it chose a false method to reimburse itself for the

There is no information that these officers were coerced into agreeing to this scheme. In fact, it appears that there were some Executive Board officers who never praticipant in the reimbursement scheme. The Submission status that at different times between 2002 and 2008, there were four additional Executive Board officers who did not seek reimbursement payments under the expense payment practice. Submission at 16. However, the Submission does not identify these individuals and is silent as to whether they consented to the use of the union's treasury funds to make contributions in the name of another. *Id.* Given the circumstances, including the impending statute of limitations, the Commission declined to take any action as to these four unnamed Executive Board officers.

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- 1 FIREPAC contributions. Thus, even if Respondents were not aware of the Act's specific
- 2 prohibitions, Respondents' use of fictitious "legislative meetings" to conceal the reimbursements
- 3 strongly suggests they knew that the reimbursements were improper. United States v. Hopkins,
- 4 916 F.2d 207, 214 (5th Cir. 1990).
- 5 Accordingly, the Commission found that Michael Drury's violations of 2 U.S.C.
- 6 §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii) (iii) and 114.2(e) from 2002 to 2008 were
- 7 knowing and willful.

1		FACTUAL AND LEGAL ANALYSIS
3		MUR 6515
5	RESPONDENT	T: Richard F. Gale
6 7	I. <u>INTRO</u>	DUCTION
8	This ma	tter originated with a sua sponte submission made to the Federal Election
9	Commission (*	the Commission") by the Professional Fire Fighters of Wisconsin ("PFFW") and
10	certain individe	eals who served as PFFW Executive Beard officers at different points between
11	2002 and 3010	(collectively referred to as "Respondents"). For the reasons set forth below, the
12	Commission fo	aund that there was reason to believe that the Professional Fire Fighters of
13	Wisconsin Exe	cutive Board officer Richard F. Gale knowingly and willfully violated 2 U.S.C.
14	§§ 441b(a) and	441f; and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) with respect to federal
15	contributions by	y PFFW from 2002 through 2008.
16	II. <u>FACTU</u>	JAL SUMMARY
17	PFFW,	the statewide affiliate of the International Association of Fire Fighters ("IAFF"),
18	reimbursed elev	ven of its officers for \$18,263.34 in contributions to IAFF's separate segregated
19	fund, Internatio	nal Association of Firefighters Interested in Registration and Education PAC
20	("FIREPAC") t	petwicen 2002-2010.
21	PFFW r	reimbursed the FIREPAC contributions in two ways. Between 2002 and 2008,
22	with the author	ization of the finil Exacutive Board, PFFW reimbursed eleven officers for
23	\$16,888.34 in F	FIREPAC contributions via claims they submitted for expenses related to fictitious
24	"legislative me	etings" in Madison, Wisconsin. Submission at 6-7. In 2009 and 2010, after the
25	fictitious "legis	slative meetings" scheme ended, without the knowledge of the full Executive

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- 1 Board, PFFW reimbursed three officers for \$1,375 in FIREPAC contributions via claims they
- 2 submitted for expenses related to conference registration fees that they never actually paid.
- 3 PFFW represents that it has 1) obtained repayments of all known amounts of the
- 4 unlawfully reimbursed contributions; 2) notified its regional caucus and local unions about the
- 5 improper expense payment practices; 3) notified FIREPAC of the unlawful reimbursements; and
- 6 4) obtained the resignations of remaining Executive Board officers who received unlawful
- 7 contribution mimbursements.

A. The 2002-2002 Reimbursements

FFFW is governed by an eleven officer Executive Board, all of whom are full-time firefighters. The officers are elected to staggered three-year terms at annual IAFF/PFFW state conventions. Submission at 3. Richard F. Gale was a PFFW Executive Board officer from 1987 to 2008. During a January 2002 leadership retreat, PFFW's then existing Executive Board encouraged its officers to increase their FIREPAC contributions to a level that would also allow them to attend the IAFF annual conference without paying a registration fee. *Id.* When some Executive Board officers expressed concern about their ability to afford larger contributions to FIREPAC, the Executive Board agreed that "any officer who made such a contribution in order to attend the legislative conference would be able to submit an expense statement to the PFFW for two administrative days to be characterized as a 'legislative meeting' in Madiston [Wisconsin]." *Id.* at 6-7. PFFW states that the "legislative meeting" contrivance was adopted in order to reduce, if not eliminate, the financial burden to Board members who made the larger contributions to FIREPAC instead of paying the registration fee to IAFF. *Id.* at 7. During similar retreats held during January or February of each successive year - with the exception of

¹ Richard F. Gale was an Executive Board officer at the time the unlawful reimbursement scheme was created.

- 2004 when the topic was apparently not raised PFFW designated similar "legislative meeting"
- 2 dates as a vehicle for the reimbursement of that year's FIREPAC contributions by Executive
- 3 Board officers.² Id. at 7.
- 4 PFFW asserts that the 2002 retreat was the first and last time that its Executive Board
- 5 discussed this repayment practice in any depth, and the practice continued until 2008, "without
- 6 legal review or operational analysis." Submission at 7. According to the declarations of the
- 7 Executive Buard officurs, none of them considered the legal ramifications of the reimbursoment
- 8 program under the Act or other laws, and most, if not all, of those who participated in the 2002
- 9 retreat had not seen IAFF or FIREPAC materials advising not to seek reimbursement for
- 10 contributions in connection with attendance at the legislative conference. Id. at 7; see also
- 11 Declarations.
- 12 PFFW argues that the 2002 agreement was not the product of any pre-retreat planning by
- any officer and there was no specific discussion about whether such practices complied with
- 14 applicable laws or IAFF policies. Submission at 14. Nevertheless, all of the PFFW officers
- acknowledge that they made false claims for the reimbursement of expenses from fictitious
- 16 "legislative meetings" as a means to obtain reimbursement of FIREPAC contributions.
- 17 In 2008, Michael Woodzieka replaced Richard Chile as PFFW President. Submission at
- 7. In preparation for the 2009 retreat, Woodzicka reviewed PFFW's practices and procedures, as
- 19 well as IAFF legislative conference registration materials stating that contributions to FIREPAC
- 20 could not be reimbursed with union funds. Submission at 8; see also Woodzicka Declaration at
- 21 ¶ 13. Woodzicka stopped the practice of making reimbursements for non-existent meetings

² Although there were no designated "legislative meeting" dates in 2004, and therefore no reimbursements for contributions, the omission was noted at the 2005 retreat and the officers agreed to designate three days, rather than the customary two days, of "legislative meetings" in 2005 to compensate for the 2004 omission. *Id.* at 7.

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because it was an "unwritten practice" and he believed that "there should be clear policies to
ensure that Executive Board members were fairly reimbursed for legitimate expenses that they
actually incurred on the PFFW's behalf." *Id.* Although Woodzicka ended the practice of
scheduling fictitious legislative meetings in 2008, PFFW did not take any corrective action or

consider self-reporting the improper reimbursements for more than a year.

B. Corrective Actions

In January 2010, Joseph Comway, an IAFF Vice-President, advised PFFW that he had learned of PFFW's improper reisabursements of FIREPAC contributions, and he asked what corrective actions PFFW would take. Submission at 16. In March 2010, PFFW consulted with counsel and established a "Special Committee" to review the expense payment practices and recommend a course of action. *Id.* After the Special Committee concluded its review, PFFW sent letters on April 10, 2010, to each of the eleven past and current Executive Board officers itemizing the amounts known to have been reimbursed between 2004 and 2008, inviting any corrections, asking for estimates of reimbursements between 2002 and 2003, and requesting repayment of all contribution reimbursements. *Id.* at 9; see also Submission Attachments. All eleven Executive Board officers repaid at least the specific sums requested, and some paid additional amounts to reflect 2002 and 2003 contribution reimbursements. *Id.*

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³ PFFW is unable to provide the exact reimburnement figures for 2002 and 2003 because in 2009, it shredded its pre-2005 financial records, including the expense statements submitted by PFFW officers. *Id.* at 8. While PFFW has the electronic Quickbook files for those years, they only record payments and not explanations of the purposes of payments to officers or others. *Id.* PFFW asserts that it shredded documents on the advice of its accountant, the shredding had nothing to do with the expense payment practice, and it happened before the internal review. *Id.*

⁴ PFFW initially requested repayments from officers totaling \$14,193 but received a total of \$18,263.44 in repayments than these individuals. The increased amount repayments the arimhursement amounts totaling \$2,497.42 from individual Executive Fround efficers who had their nown documentation or arimment of reinforcements during 2002 and 2503 plus \$1,375 from individual Executive Fround officers who used other means to cause PFFW to reinforce FREPAC contributions made in 2009-2010.

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C. <u>Summary</u>

- 2 PFFW's payments to reimburse Executive Board officers for FIREPAC contributions are
- 3 summarized below.

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Executive Board Officers	Estimated Officer Reimbursement Amts. for 2002 and 2003	Officer Reimbursement Amts. for 2005-2008	Officer Reimbursement Amts. for 2009-2010	Total amt. repaid by Officers for 2002- 2010
Aldrich	\$D	\$1,027.70	n/a	\$1,027.70
કેફકા, ફેકાનું	374 4.3.A			
Drury	\$837.71	\$2,162.29	\$0	\$3,000
mile			0.4	
Gee	\$443.66	\$1,956.34	\$475	\$2,875
	State (Sign	\$2.5 (0.00)	3	
Hanson.	\$131.11	\$2,068.89	\$ 475	\$2,675
Killbette.			1 250	
Orlando	n/a	\$678.45	n/a	\$678.45
Woodzicka	\$56.53	\$1,100	\$0	\$1,156.53
TOTALS				
	\$2,497.42	\$14,391.02	\$1,375	\$18,263.34

III. LEGAL ANALYSIS

6 The Federal Election Campaign Act of 1971, as amended ("Act") prohibits a labor 7 organization from making a contribution in connection with any election and any officer of any 8 labor organization from consenting to any contribution by the labor organization. 2 U.S.C. § 441b(a) and 11 C.F.R. 114.2(e). The Act further provides that "no person shall make a 9 10 contribution in the name of another person." 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(i). The 11 prohibition extends to knowingly permitting one's name to be used to effect the making of 12 contribution in the name of another or knowingly helping or assisting any person in making a 13 contribution in the name of another. 11 C.F.R. § 110.4(b)(ii) and)(iii). The Commission's Explanation and Justification ("E&J") states that "knowingly helping or assisting" applies to 14 "those who initiate or instigate or have some significant participation in a plan or scheme to 15

MUR 6515 Professional Fire Fighters of Wisconsin et al Factual and Legal Analysis for Richard Gale

- 1 make a contribution in the name of another" E&J for 11 C.F.R. § 110.4 at 54 Fed. Reg.
- 2 34,105 (Aug. 17, 1989).
- The Act also addresses violations of law that are knowing and willful. See 2 U.S.C.
- 4 §§ 437g(a)(5)(B) and 437g(d). The knowing and willful standard requires knowledge that one is
- 5 violating the law. Federal Election Commission v. John A. Dramesi for Congress Committee.
- 6 640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established "by
- 7 proof that the defendant acted deliberately and with knowledge that the representation was
- 8 false." United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). Evidence does not have to
- 9 show that the defendant had a specific knowledge of the regulations; an inference of knowing
- and willful conduct may be drawn from the defendant's scheme to disguise the source of funds
- 11 used in illegal activities. Id. at 213-15.

A. PFFW & Executive Board Officers/Conduits

- The expense reimbursement scheme that PFFW began in 2002 designated two days per
- 14 year for "legislative meetings" that never took place and allowed the Executive Board officers to
- 15 be reimbursed for their FIREPAC contributions by claiming expenses incurred in connection
- with these fictional meetings. Submission at 6-7. Between 2002 and 2008, PFFW disbursed
- 17 \$16.888.34 so eximinarso FIREPAC contributions. Id. at 3. In addition, between 2009 and 2010,
- 18 PFFW dishursed \$1,375 to mimburse FREPAC contributions. Id. at 10-12,
- 19 The individual respondents were officers of PFFW who consented to the use of
- 20 prohibited labor union treasury funds to reimburse FIREPAC contributions, allowed their names
- 21 to be used to make these contributions, and knowingly helped or assisted in the making of
- 22 contributions in the names of others. While the Commission frequently takes no action as to

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MUR 6515 Professional Fire Fighters of Wisconsin et al Factual and Legal Analysis for Richard Gale

- subordinate conduits responding to pressure from their employer/superior, the Commission has
- 2 pursued officers who consented to and assisted in the use of corporate or union funds to make
- 3 reimbursements. 5 See MUR 5357 (Centex) (the Commission approved reason to believe
- 4 findings against the corporation and the officers for making and consenting to the use of
- 5 prohibited funds to make contributions in the names of others).

6 Accordingly, the Commission found reason to believe that Richard F. Gale violated

7 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) by consenting to

8 the use of problems althor union treasury funds to make upntributions in the names of others, by

permitting his/her name to be used to make contributions in the name of another, and by

knowingly helping or assisting the PFFW in the making of contributions in the names of others.

B. Knowing and Willful

1. 2002 through 2008 Reimbursement Scheme

The individual Executive Board officers concealed the 2002-2008 reimbursements by authorizing the officers to claim expenses for fictitious "legislative meetings." The individual officers claim there was no pre-planning or discussion about whether such practices would comply with the Act or IAFF policy. But, the Executive Board went to considerable lengths to conceal the mimbursements over a number of years by allowing its officers to be mimbursed for expense vouchers they knew were false. PFFW atknowledges that the Executive Board had the option of revising its existing policies to provide for legitimate reimbursement for the officers' time and efforts. Submission at 7. Instead, it chose a false method to reimburse itself for the

There is no information that these officers were coerced into agreeing to this scheme. In fact, it appears that there were some Executive Board officers who never posticipated in the reinibussement scheme. The Bubmission states that at different times between 2002 and 2008, there were four additional Executive Board officers who did not seek reimbursement payments under the expense payment practice. Submission at 16. However, the Submission does not identify these individuals and is silent as to whether they consented to the use of the union's treasury funds to make contributions in the name of another. *Id.* Given the circumstances, including the impending statute of limitations, the Commission declined to take any action as to these four unnamed Executive Board officers.

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Professional Fire Fighters of Wisconsin e	i al
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- 1 FIREPAC contributions. Thus, even if Respondents were not aware of the Act's specific
- 2 prohibitions, Respondents' use of fictitious "legislative meetings" to conceal the reimbursements
- 3 strongly suggests they knew that the reimbursements were improper. United States v. Hopkins,
- 4 916 F.2d 207, 214 (5th Cir. 1990).
- 5 Accordingly, the Commission found that Richard Gale's violations of 2 U.S.C.
- 6 §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii) (iii) and 114.2(e) from 2002 to 2008 were
- 7 knowing and willful.

1 2		FACTUAL AND LEGAL ANALYSIS
3		MUR 6515
5	RESPONDENT:	John C. Gee
6 7	I. INTRODUCTION	<u>on</u>
8	This matt	ter originated with a sua sponte submission made to the Federal Election
9	Commission ("the Com	mission") by the Professional Fire Fighters of Wisconsin ("PFFW") and
10	certain individuals who	served un PFFW Executive Bound officers at different points between
11	2002 and 2010 (collective	vely inferred to as "Respondents"). For the reasons sat forth balow, the
12	Commission found that	there was reason to believe that the Professional Fire Fighters of
13	Wisconsin Executive Bo	pard officer John C. Gee knowingly and willfully violated 2 U.S.C.
14	§§ 441b(a) and 441f; an	d 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) with respect to federal
15	contributions by PFFW	from 2002 through 2008 and also violated 2 U.S.C. §§ 441b(a) and 441f
16	and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) with respect to federal contributions
17	reimbursed by PFFW fr	om 2009 through 2010.
18	II. <u>FACTUAL SU</u>	<u>MMARY</u>
19	PFFW, the state	wide affiliate of the International Association of Fire Fighters ("IAFF"),
20	reimbursed eleven of its	officers for \$18,263.34 in contributions to IAFF's separate segregated
21	fund, International Asso	mistion of Firefighters Interested in Registration and Edwartion PAC
22	("FIREPAC") between	2002-2010.
23	PFFW reimburs	ed the FIREPAC contributions in two ways. Between 2002 and 2008,
24	with the authorization o	f the full Executive Board, PFFW reimbursed eleven officers for
25	\$16,888.34 in FIREPA	C contributions via claims they submitted for expenses related to fictitious
26	"legislative meetings" i	n Madison, Wisconsin. Submission at 6-7. In 2009 and 2010, after the

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- 1 fictitious "legislative meetings" scheme ended, without the knowledge of the full Executive
- 2 Board, PFFW reimbursed three officers for \$1,375 in FIREPAC contributions via claims they
- 3 submitted for expenses related to conference registration fees that they never actually paid.
- 4 PFFW represents that it has 1) obtained repayments of all known amounts of the
- 5 unlawfully reimbursed contributions; 2) notified its regional caucus and local unions about the
- 6 improper expense payment practices; 3) notified FIREPAC of the unlawful reimbursements; and
- 7 4) statistical time regigerations of remaining Executive Board officers who received unlawful
- 8 contribution minbursements.

A. The 2002-2008 Reimbursements

FFFW is governed by an eleven officer Executive Board, all of whom are full-time firefighters. The officers are elected to staggered three-year terms at annual IAFF/PFFW state conventions. Submission at 3. John C. Gee was a PFFW Executive Board officer from 1999 to 2011. During a January 2002 leadership retreat, PFFW's then existing Executive Board encouraged its officers to increase their FIREPAC contributions to a level that would also allow them to attend the IAFF annual conference without paying a registration fee. *Id.* When some Executive Board officers expressed concern about their ability to afford larger contributions to FIREPAC, the Executive Board agreed that "any officer who made such a contribution in order to attend the legislative conference would be able to submit an expense statement to the PFFW for two administrative days to be characterized as a 'legislative meeting' in Madison [Wisconsin]." *Id.* at 6-7. PFFW states that the "legislative meeting" contrivance was adopted in order to reduce, if not eliminate, the financial burden to Board members who made the larger contributions to FIREPAC instead of paying the registration fee to IAFF. *Id.* at 7. During

I John C. Gee was an Executive Board officer at the time the unlawful reimbursement scheme was created.

similar retreats held during January or February of each successive year - with the exception of

2 2004 when the topic was apparently not raised - PFFW designated similar "legislative meeting"

dates as a vehicle for the reimbursement of that year's FIREPAC contributions by Executive

4 Board officers.² Id. at 7.

PFFW asserts that the 2002 retreat was the first and last time that its Executive Board discussed this repayment practice in any depth, and the practice continued until 2009, "without legal revinor or operational analysis." Submission at 7. According to the declarations of the Executive Board officers, none of them considered the legal ramifications of the reinbursement program under the Act or other laws, and most, if not all, of those who participated in the 2002 retreat had not seen IAFF or FIREPAC materials advising not to seek reimbursement for contributions in connection with attendance at the legislative conference. *Id.* at 7; see also Declarations.

PFFW argues that the 2002 agreement was not the product of any pre-retreat planning by any officer and there was no specific discussion about whether such practices complied with applicable laws or IAFF policies. Submission at 14. Nevertheless, all of the PFFW officers acknowledge that they made false claims for the reimbursement of expenses from fictitious "legislative meetings" as a mersus to obtain reimbursement of FIRBPAC contributions.

In 2068, Michael Woodzicka replaced Richard Grde as PFFW President. Submission at 7. In preparation for the 2009 retreat, Woodzicka reviewed PFFW's practices and procedures, as well as IAFF legislative conference registration materials stating that contributions to FIREPAC could not be reimbursed with union funds. Submission at 8; see also Woodzicka Declaration at

² Although there were no designated "legislative meeting" dates in 2004, and therefore no reimbursements for contributions, the omission was noted at the 2005 retreat and the officers agreed to designate three days, rather than the austomary two days, of "legislative meetings" in 2005 to comperments for the 2004 omission. *Id.* at 7.

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- 1 ¶ 13. Woodzicka stopped the practice of making reimbursements for non-existent meetings
- 2 because it was an "unwritten practice" and he believed that "there should be clear policies to
- 3 ensure that Executive Board members were fairly reimbursed for legitimate expenses that they
- 4 actually incurred on the PFFW's behalf." Id. Although Woodzicka ended the practice of
- 5 scheduling fictitious legislative meetings in 2008, PFFW did not take any corrective action or
- 6 consider self-reporting the improper reimbursements for more than a year.

B. <u>2009-2010 Reimbursemmis</u>

During the course of preparing this Submission, PFFW learned that it also had reimbursed three Executive Board officers -- Baird, Gee, and Hanson -- for \$1,375 in FIREPAC contributions made in 2009-2010. Submission at 10. Baird, Gee, and Hanson state that they made \$500 contributions each to FIREPAC in March 2009 and February 2010 in connection with the 2009 and 2010 IAFF legislative conferences. By making the \$500 contributions to FIREPAC, IAFF waived their registration fees. However, Baird, Gee, and Hanson submitted expense claims requesting reimbursement of the conference registration fees they had not actually paid in order to be reimbursed for their contributions. *Id.* at 10-11; *see also* Baird, Gee, and Hanson Declarations. PPFW admits that it effectively reimbursed these 2009-2010 FfREPAC contributions, but asserts that no Executive Board officer, other than the three officers submitting the claims, was aware that the \$425 and \$475 registration fees had not born paid. *Id.* at 2, 10-11.

C. Corrective Actions

In January 2010, Joseph Conway, an IAFF Vice-President, advised PFFW that he had learned of PFFW's improper reimbursements of FIREPAC contributions, and he asked what corrective actions PFFW would take. Submission at 16. In March 2010, PFFW consulted with

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- 1 counsel and established a "Special Committee" to review the expense payment practices and
- 2 recommend a course of action. Id. After the Special Committee concluded its review, PFFW
- 3 sent letters on April 10, 2010, to each of the eleven past and current Executive Board officers
- 4 itemizing the amounts known to have been reimbursed between 2004 and 2008, inviting any
- 5 corrections, asking for estimates of reimbursements between 2002 and 2003, and requesting
- 6 repayment of all contribution reimbursements. 3 Id. at 9; see also Submission Attachments. All
- 7 eleven Executive Board officers repaid at least the specific sums remnested, and some paid
- 8 additional amounts to reflect 2002 and 2003 contribution reimbursements. 4 Id

D. Summary

PFFW's payments to reimburse Executive Board officers for FIREPAC contributions are

summarized below.

Executive Board Officers	Estimated Officer Reimbursement Amts. for 2002 and 2003	Officer Relmb. Amts. for 2005-2008	Officer Reimbursement Amts, for 2009-2010	Total amt. repaid for 2002-2010
Aldrich	\$0	\$1,027.70	n/a	\$1,027.70
7.11				
Drury	26 37.71	\$2,162.29	\$0	₿3,000
		21,835.36	Arta	3.1.2100
Gee	\$ 443.66	\$1,956.34	\$475	\$2,875
is there	\$625, 40	80,530	500	91, 2014.316
Hanson	\$131.11	\$2,068.89	\$475	\$2,675
Highie	(Stad)	S(0)	163	Army,
Orlando.	n/a	\$678.45	n/a	\$ 67 8 .45
WEDNES	3040	122 140 337	15(£)	50B) (200
Woodzicka	\$ 56.53	\$1,100	\$0	\$1,156.53
TOTALS	\$2,497.42	. \$14,391.02	\$1,375	\$18,263.34

³ PFFW is unable to provide the exact reimbursement figures for 2002 and 2003 because in 2009, it shredded its pre-2005 financial records, including the expense statements submitted by PFFW officers. *Id.* at 8. While PFFW has the electronic Quickbook files for those years, they only record payments and not explanations of the purposes of payments to officers or others. *Id.* PFFW asserts that it shredded documents on the advice of its accountant, the shredding had nothing to do with the expense payment practice, and it happened before the internal review. *Id.*

⁴ PFFW initially requested repayments from officers totaling \$14,193 but received a total of \$18,263.44 in repayments from these individuals. The increased answer represents the minibursament amounts totaling \$2,497.42 from individual Executive Board officers who land their own documentation or notificers of reimbursaments during 2002 and 2003 plus \$1,375 from individual Executive Board officers who used other means to cause PFFW to reimbursa FIREPAC montributions made in 2009-2010.

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Factual and Legal Analysis for John C. Gee

III. LEGAL ANALYSIS

2 The Federal Election Campaign Act of 1971, as amended ("Act") prohibits a labor 3 organization from making a contribution in connection with any election and any officer of any 4 labor organization from consenting to any contribution by the labor organization. 2 U.S.C. 5 § 441b(a) and 11 C.F.R. 114.2(e). The Act further provides that "no person shall make a 6 contribution in the name of another person." 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(i). The 7 prohibition extends to knowingly permitting one's name to be used to effect the making of 8 contribution in the name of another or knowingly helping or assisting any person in making a 9 contribution in the name of another. 11 C.F.R. § 110.4(b)(ii) and)(iii). The Commission's 10 Explanation and Justification ("E&J") states that "knowingly helping or assisting" applies to 11 "those who initiate or instigate or have some significant participation in a plan or scheme to 12 make a contribution in the name of another " E&J for 11 C.F.R. § 110.4 at 54 Fed. Reg. 13 34.105 (Aug. 17, 1989). The Act also addresses violations of law that are knowing and willful. See 2 U.S.C. 14 §§ 437g(a)(5)(B) and 437g(d). The knowing and willful standard requires knowledge that one is 15 16 violating the law. Federal Election Commission v. John A. Dramesi for Congress Committee, 17 640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established "by 18 proof that the defendant acted deliberately and with knowledge that the representation was false." United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). Evidence does not have to 19 20 show that the defendant had a specific knowledge of the regulations; an inference of knowing 21 and willful conduct may be drawn from the defendant's scheme to disguise the source of funds 22 used in illegal activities. Id. at 213-15.

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PFFW & Executive Board Officers/Conduits

The expense reimbursement scheme that PFFW began in 2002 designated two days per 3 year for "legislative meetings" that never took place and allowed the Executive Board officers to 4 be reimbursed for their FIREPAC contributions by claiming expenses incurred in connection 5 with these fictional meetings. Submission at 6-7. Between 2002 and 2008, PFFW disbursed 6 \$16,888.34 to reimburse FIREPAC contributions. Id. at 3. In addition, between 2009 and 2010, 7 PFFW disbursed \$1,375 to mimburse FIREPAC contributions. Id. at 10-12. 8 The individual respondents were afficers of PFFW who consented to the use of 9 prohibited labor union treasury funds to reimburse FIREPAC contributions, allowed their names 10 to be used to make these contributions, and knowingly helped or assisted in the making of 11 contributions in the names of others. While the Commission frequently takes no action as to 12 subordinate conduits responding to pressure from their employer/superior, the Commission has pursued officers who consented to and assisted in the use of corporate or union funds to make 13 reimbursements. 5 See MUR 5357 (Centex) (the Commission approved reason to believe 14 15 findings against the corporation and the officers for making and consenting to the use of 16 prohibited funds to make contributions in the names of others).

17 Accordingly, the Commission found season to believe that John C. Gee violated 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) by consenting to 18 19 the use of prohibited labor union treasury funds to make contributions in the names of others, by 20 permitting his/her name to be used to make contributions in the name of another, and by

⁵ There is no information that these officers were coerced into agreeing to this scheme. In fact, it appears that there were some Executive Board officers who never perticipated in the reimbursument scheme. The Submittsion states that at different times between 2002 and 2008, there were four additional Executive Board officers who did not seek reimbursament payments under the expense payment practice. Submission at 16. However, the Submission does not identify these individuals and is silent as to whether they consented to the use of the union's treasury funds to make contributions in the name of another. Id. Given the circumstances, including the impending statute of limitations, the Commission declinat to take any action as to these four unnamed Executive Board officers.

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1 knowingly helping or assisting the PFFW in the making of contributions in the names of others.

B. Knowing and Willful

1. 2002 through 2008 Reimbursement Scheme

The individual Executive Board officers concealed the 2002-2008 reimbursements by authorizing the officers to claim expenses for fictitious "legislative meetings." The individual officers claim there was no pre-planning or discussion about whether such practices would comply with the Act or IAFF policy. But, the Examethre Board weat to considerable lengths to conneal the reimbursements over a number of years by allowing its officers to be reimbursed for expense vouchers they knew were false. PFFW acknowledges that the Executive Board had the option of revising its existing policies to provide for legitimate reimbursement for the officers' time and efforts. Submission at 7. Instead, it chose a false method to reimburse itself for the FIREPAC contributions. Thus, even if Respondents were not aware of the Act's specific prohibitions, Respondents' use of fictitious "legislative meetings" to conceal the reimbursements strongly suggests they knew that the reimbursements were improper. United States v. Hopkins, 916 F.2d 207, 214 (5° Cir. 1990).

Accordingly, the Commission found that John C. Gee's violations of 2 U.S.C. §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii) - (iii) and 114.2(e) from 2002 to 2008 were knowing and willful.

2. 2009 and 2010 Contribution Rounbursements

In 2009 and 2010, three Executive Board officers, including John C. Gee, received contribution reimbursements after PFFW had ended its 2002-2008 expense payment practice.

These individuals caused PFFW to reimburse their FIREPAC contributions by claiming to have paid IAFF conference registration fees that had actually been waived.

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As Executive Board officers, these individuals caused PFFW to use prohibited labor union general treasury funds to make contributions in the names of others and consented to the use of those prohibited funds to make contributions in the names of others. In addition, these Executive Board officers permitted their names to be used to make contributions in the names of others and knowingly helped or assisted PFFW to make those contributions in the names of others. PFFW's decision in late 2008 to stop the "legislative meetings" reimbursement scheme should have put these three officers on antice that the FIREPAC contributions could not be reimbursed. Although the three PFFW Executive Board officers did not pay the fees, they appear to have believed that they were entitled to reimbursement of registration fees IAFF waived as a result of the FIREPAC contributions nominally made from their personal funds. 12 PFFW acknowledges that its payment of these claims resulted in the reimbursement of the 13 FIREPAC contributions, Submission at 10 and attached Declarations. The three officers have 14 offered no reasonable explanation for their conduct. See Declarations. Accordingly, the 15 Commission found that John Gee's violations of 2 U.S.C. §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii) - (iii) and 114.2(e) for the 2010 contribution reimbursement was knowing and 16 17 willful.

1 2	F	ACTUAL AND LEGAL ANALYSIS
3		MUR 6515
4 5	RESPONDENT:	Troy W. Haase
6 7	I. <u>INTRODUCTION</u>	
8	This matter originated	with a sua sponte submission made to the Federal Election
9	Commission ("the Commission	on") by the Professional Fire Fighters of Wisconsin ("PFFW") and
10	certain individuals who serve	d as PFFW Executive Board officers at different points between
11	2002 and 2010 (collectively a	efersed to as "Respondents"). For the reason act forth below, the
12	Commission found that there	was reason to believe that the Professional Fire Fighters of
13	Wisconsin Executive Board o	fficer Troy W. Haase knowingly and willfully violated 2 U.S.C.
14	§§ 441b(a) and 441f; and 11 (C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) with respect to federal
15	contributions by PFFW from	2002 through 2008.
16	II. <u>FACTUAL SUMMA</u>	<u>ry</u>
17	PFFW, the statewide a	affiliate of the International Association of Fire Fighters ("IAFF"),
18	reimbursed eleven of its offic	ers for \$18,263.34 in contributions to IAFF's separate segregated
19	fund, International Association	on of Firefighters Interested in Registration and Education PAC
20	("FIREPAC") between 2002-	2010.
21	PFFW reimbursed the	FIREPAC contributions in two ways. Between 2002 and 2008,
22	with the authorization of the	full Exacutive Board, PFFW reimbursed eleven officers for
23	\$16,888.34 in FIREPAC conf	tributions via claims they submitted for expenses related to fictitious
24	"legislative meetings" in Mad	lison, Wisconsin. Submission at 6-7. In 2009 and 2010, after the
25	fictitious "legislative meeting	s" scheme ended, without the knowledge of the full Executive

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- 1 Board, PFFW reimbursed three officers for \$1,375 in FIREPAC contributions via claims they
- 2 submitted for expenses related to conference registration fees that they never actually paid.
- 3 PFFW represents that it has 1) obtained repayments of all known amounts of the
- 4 unlawfully reimbursed contributions; 2) notified its regional caucus and local unions about the
- 5 improper expense payment practices; 3) notified FIREPAC of the unlawful reimbursements; and
- 6 4) obtained the resignations of remaining Executive Board officers who received unlawful
- 7 contribution reiminuments.

A. The 2002-2002 Reimbursements

PFFW is governed by an eleven officer Executive Board, all of whom are full-time firefighters. The officers are elected to staggered three-year terms at annual IAFF/PFFW state conventions. Submission at 3. Troy W. Haase was a PFFW Executive Board officer from 2006 to 2010. During a January 2002 leadership retreat, PFFW's then existing Executive Board encouraged its officers to increase their FIREPAC contributions to a level that would also allow them to attend the IAFF annual conference without paying a registration fee. *Id.* When some Executive Board officers expressed concern about their ability to afford larger contributions to FIREPAC, the Executive Board agreed that "any officer who made such a contribution in order to attend the legislative conference would be able to submit an expease statement to the PFFW for two administrative dags to be characterized as a 'legislative meeting' in Madisoa [Wisconsin]." *Id.* at 6-7. PFFW states that the "legislative meeting" contrivance was adopted in order to reduce, if not eliminate, the financial burden to Board members who made the larger contributions to FIREPAC instead of paying the registration fee to IAFF. *Id.* at 7. During similar retreats held during January or February of each successive year - with the exception of

¹ Trov W. Haase was not an Executive Board officer at the time the unlawful reimbursement scheme was created.

- 1 2004 when the topic was apparently not raised PFFW designated similar "legislative meeting"
- 2 dates as a vehicle for the reimbursement of that year's FIREPAC contributions by Executive
- 3 Board officers.² Id. at 7.
- 4 PFFW asserts that the 2002 retreat was the first and last time that its Executive Board
- 5 discussed this repayment practice in any depth, and the practice continued until 2008, "without
- 6 legal review or operational analysis." Submission at 7. According to the declarations of the
- 7 Executive Beard officers, none of them considered the legal ramifications of the reimborsement
- 8 program under the Act or other laws, and most, if not all, of those who participated in the 2082
- 9 retreat had not seen HAFF or FIREPAC materials advising not to seek reimbursement for
- 10 contributions in connection with attendance at the legislative conference. *Id.* at 7; see also
- 11 Declarations.

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- PFFW argues that the 2002 agreement was not the product of any pre-retreat planning by any officer and there was no specific discussion about whether such practices complied with applicable laws or IAFF policies. Submission at 14. Nevertheless, all of the PFFW officers acknowledge that they made false claims for the reimbursement of expenses from fictitious
- 17 In 2008, Mishael Worstzicka replaced Richard Gale as PFFW President. Sciemission at

"legislative meetings" as a means to obtain reimbursement of FIREPAC contributions.

- 7. In preparation for the 2009 retroat, Wnodzicka roviewed PFFW's practices and procedures, as
- 19 well as IAFF legislative conference registration materials stating that contributions to FIREPAC
- 20 could not be reimbursed with union funds. Submission at 8; see also Woodzicka Declaration at
- 21 ¶ 13. Woodzicka stopped the practice of making reimbursements for non-existent meetings

² Although there were no designated "legislative meeting" dates in 2004, and therefore no reimbursements for contributions, the omission was noted at the 2005 retreat and the officers agreed to designate three days, rather than the customary two days, of "legislative meetings" in 2005 to compensate for the 2004 oranizan. *Id.* at 7.

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- 1 because it was an "unwritten practice" and he believed that "there should be clear policies to
- 2 ensure that Executive Board members were fairly reimbursed for legitimate expenses that they
- actually incurred on the PFFW's behalf." Id. Although Woodzicka ended the practice of
- 4 scheduling fictitious legislative meetings in 2008, PFFW did not take any corrective action or
- 5 consider self-reporting the improper reimbursements for more than a year.

B. Corrective Actions

In January 2010, Joseph Conway, an IAFF Vice-President, advised PFFW that he had learned of PFFW's improper reisabursements of FIREPAC contributions, and he asked what corrective actions PFFW would take. Submission at 16. In March 2010, PFFW consulted with counsel and established a "Special Committee" to review the expense payment practices and recommend a course of action. *Id.* After the Special Committee concluded its review, PFFW sent letters on April 10, 2010, to each of the eleven past and current Executive Board officers itemizing the amounts known to have been reimbursed between 2004 and 2008, inviting any corrections, asking for estimates of reimbursements between 2002 and 2003, and requesting repayment of all contribution reimbursements.

**Id.* at 9; see also Submission Attachments. All eleven Executive Board officers repaid at least the specific sums requested, and some paid additional amounts to reflect 2002 and 2003 contribution seimbursements.

**Id.* at 9; see also Submission Attachments. All eleven Executive Board officers repaid at least the specific sums requested, and some paid

³ PFFW is unable to provide the exact reimburnement figures for 2002 and 2003 because in 2009, it shredded its pre-2005 financial records, including the expense statements submitted by PFFW officers. *Id.* at 8. While PFFW has the electronic Quickbook files for those years, they only record payments and not explanations of the purposes of payments to officers or others. *Id.* PFFW asserts that it shredded documents on the advice of its accountant, the shredding had nothing to do with the expense payment practice, and it happened before the internal review. *Id.*

⁴ PFFW initially requested repayments from officers totaling \$14,193 but received a total of \$15,263.44 in repayments from those individuals. The increased amount represents the schuluroment amounts totaling \$2,497.42 from individual Executive Front afficure what their news secumentation or estimates of seize-security during 2062 and 2003 plus \$1,375 from individual Executive Board officers who used other means to cause PFFW to reignhous FIREPAC contributions made in 2009-2010.

C. Summary

2 PFFW's payments to reimburse Executive Board officers for FIREPAC contributions are

summarized below.

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Executive Board Officers	Estimated Officer Reimbursement Amts. for 2002 and 2003	Officer Reimbursement Amts. for 2005-2008	Officer Reimbursement Amts. for 2009-2010	Total amt. repaid by Officers for 2002- 2010
Aldrich	RO	\$1,027.70	n/a	\$1,027.70
i ghail	\$5044,501	Sal justi		\$5,000
Drury	\$837.71	\$2,162.29	\$0	\$3,000
(chale	\$ 8	i15		
Gee	\$44 3.66	\$1,956.34	\$475	\$2,875
,8(a)(4)	[850.A.50;		7/5	Salvasia!
Hanson	\$131.11	\$2,068.89	\$475	\$2,675
Billion.	[] [[] [] [] [] [] [] [] [] [J	16.00	
Orlando	n/a	\$678.45	n/a	\$∪/8.45
10 (12 m)	9/49	N21811 240	1/2	3551,40
Woodzicka	\$56.53	\$1,100	\$0	\$1,156.53
TOTALS				
-3	\$2,497.42	\$14,391.02	\$1,375	\$18,263.34

III. LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("Act") prohibits a labor organization from making a contribution in connection with any election and any officer of any labor organization from consenting to any contribution by the labor organization. 2 U.S.C. § 441b(a) and 11 C.F.R. 114.2(e). The Act further provides that "no person shall make a contribution in the name of another person." 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(i). The prohibition extends to knowingly permitting one's name to be used to effect the making of contribution in the name of another or knowingly helping or assisting any person in making a contribution in the name of another. 11 C.F.R. § 110.4(b)(ii) and)(iii). The Commission's Explanation and Justification ("E&J") states that "knowingly helping or assisting" applies to "those who initiate or instigate or have some significant participation in a plan or scheme to

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- 1 make a contribution in the name of another" E&J for 11 C.F.R. § 110.4 at 54 Fed. Reg.
- 2 34,105 (Aug. 17, 1989).
- The Act also addresses violations of law that are knowing and willful. See 2 U.S.C.
- 4 §§ 437g(a)(5)(B) and 437g(d). The knowing and willful standard requires knowledge that one is
- 5 violating the law. Federal Election Commission v. John A. Dramesi for Congress Committee,
- 6 640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established "by
- 7 proof that the defendant acted deliberately and with knowledge that the negresentation was
- 8 false." United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). Evidence does not have to
- 9 show that the defendant had a specific knowledge of the regulations; an inference of knowing
- and willful conduct may be drawn from the defendant's scheme to disguise the source of funds
- used in illegal activities. *Id.* at 213-15.

A. PFFW & Executive Board Officers/Conduits

- The expense reimbursement scheme that PFFW began in 2002 designated two days per
- 14 year for "legislative meetings" that never took place and allowed the Executive Board officers to
- 15 be reimbursed for their FIREPAC contributions by claiming expenses incurred in connection
- with these fictional meetings. Submission at 6-7. Between 2002 and 2008, PFFW disbursed
- 17 \$16,888.34 to reimburge FIREPAC contributions. Id. at 3. In addition, brownen 2009 and 2010.
- 18 PFFW dishursed \$1,375 to mimburse FIREPAC contributions. Id. at 10-12.
- The individual respondents were officers of PFFW who consented to the use of
- 20 prohibited labor union treasury funds to reimburse FIREPAC contributions, allowed their names
- 21 to be used to make these contributions, and knowingly helped or assisted in the making of
- 22 contributions in the names of others. While the Commission frequently takes no action as to

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- 1 subordinate conduits responding to pressure from their employer/superior, the Commission has
- 2 pursued officers who consented to and assisted in the use of corporate or union funds to make
- 3 reimbursements. 5 See MUR 5357 (Centex) (the Commission approved reason to believe
- 4 findings against the corporation and the officers for making and consenting to the use of
- 5 prohibited funds to make contributions in the names of others).

6 Accordingly, the Commission found reason to believe that Troy Haase violated

7 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) by commenting to

the use of prohibited lottes anion tenasury funds to make contributions in the manes of others, by

permitting his/her name to be used to make contributions in the name of another, and by

knowingly helping or assisting the PFFW in the making of contributions in the names of others.

B. Knowing and Willful

1. 2002 through 2008 Reimbursement Scheme

The individual Executive Board officers concealed the 2002-2008 reimbursements by authorizing the officers to claim expenses for fictitious "legislative meetings." The individual officers claim there was no pre-planning or discussion about whether such practices would comply with the Act or IAFF policy. But, the Executive Board went to considerable lengths to conceal the reimbursements ower a number of years by believing its officers to be reimbursed for expense vouchers they knew were false. PFFW admowledges that the Executive Board had the option of revising its existing policies to provide for legitimate reimbursement for the officers' time and efforts. Submission at 7. Instead, it chose a false method to reimburse itself for the

There is no information that these officers were coerced into agreeing to this scheme. In fact, it appears that there were some Executive Board officers who tascer participated in the reimburgement scheme. The Submission states that at different times between 2002 and 2008, there were four additional Executive Board officers who did not seek reimbursement payments under the expense payment practice. Submission at 16. However, the Submission does not identify these individuals and is silent as to whether they consented to the use of the union's treasury funds to make contributions in the name of another. *Id.* Given the circumstances, including the impending statute of limitations, the Commission declined to take any action as to there four unnamed Executive Board officers.

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- 1 FIREPAC contributions. Thus, even if Respondents were not aware of the Act's specific
- 2 prohibitions, Respondents' use of fictitious "legislative meetings" to conceal the reimbursements
- 3 strongly suggests they knew that the reimbursements were improper. United States v. Hopkins,
- 4 916 F.2d 207, 214 (5th Cir. 1990).
- 5 Accordingly, the Commission found that Troy Haase's violations of 2 U.S.C. §§ 441b(a)
- 6 and 441f and 11 C.F.R. §§ 110.4(b)(ii) (iii) and 114.2(e) from 2002 to 2008 were knowing and
- 7 willful.

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1 2	FACTUAL AND LEGAL ANALYSIS			
3			MUR 6515	
5	RES	PONDENT:	Lance A. Hanson	
6 7	I.	INTRODUCTI	<u>ON</u>	
8		This matter original	inated with a sua sponte submission made to the Federal Election	
9	Com	umission ("the Com	mission") by the Professional Fire Fighters of Wisconsin ("PFFW") and	
10	certa	in individuals who	served as PFFW Executive Board officers at different points between	
11	2006	2 and 2010 (milecti	vely referred to as "Respondents"). For the reasons pet forth below, the	
12	Con	mission found that	there was reason to believe that the Professional Fire Fighters of	
13	Wise	consin Executive Be	pard officer Lance A. Hanson knowingly and willfully violated 2 U.S.C.	
14	§§ 4	41b(a) and 441f; an	d 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) with respect to federal	
15	cont	ributions by PFFW	from 2002 through 2008 and also violated 2 U.S.C. §§ 441b(a) and 441f	
16	and	11 C.F.R. §§ 110.4((b)(ii) and (iii) and 114.2(e) with respect to federal contributions	
17	reim	bursed by PFFW fr	rom 2009 through 2010.	
18	n.	FACTUAL SU	MMARY	
19		PFFW, the state	wide affiliate of the International Association of Fire Fighters ("IAFF"),	
20	reim	bursed eleven of its	s officers for \$18,263.34 in contributions to IAFF's separate segregated	
21	fund	l, International Asso	naittion of Firefighters Interested in Registration and Education PAC	
22	("FI	REPAC") between	2002-2010.	
23		PFFW reimburs	ed the FIREPAC contributions in two ways. Between 2002 and 2008,	
24	with	the authorization o	of the full Executive Board, PFFW reimbursed eleven officers for	
25	\$16,	,888.34 in FIREPA	C contributions via claims they submitted for expenses related to fictitious	
26	"log	islative meetings" i	n Medison Wisconsin Submission at 6.7 In 2000 and 2010 after the	

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- 1 fictitious "legislative meetings" scheme ended, without the knowledge of the full Executive
- 2 Board, PFFW reimbursed three officers for \$1,375 in FIREPAC contributions via claims they
- 3 submitted for expenses related to conference registration fees that they never actually paid.
- 4 PFFW represents that it has 1) obtained repayments of all known amounts of the
- 5 unlawfully reimbursed contributions; 2) notified its regional caucus and local unions about the
- 6 improper expense payment practices; 3) notified FIREPAC of the unlawful reimbursements; and
- 7 4) obtained the realignatisms of remaining Executive Board officers who received unlawful
- 8 contribution mimbursements.

A. The 2902-2008 Reimbursements

FFFW is governed by an eleven officer Executive Board, all of whom are full-time firefighters. The officers are elected to staggered three-year terms at annual IAFF/PFFW state conventions. Submission at 3. Lance A. Hanson was a PFFW Executive Board officer from 2000 to 2011. During a January 2002 leadership retreat, PFFW's then existing Executive Board encouraged its officers to increase their FIREPAC contributions to a level that would also allow them to attend the IAFF annual conference without paying a registration fee. *Id.* When some Executive Board officers expressed concern about their ability to afford larger contributions to FIREPAC, the Executive Board agreed that "any officer who mude such a contribution in order to attend the legislative conference would be able to submit an expense statement to the PFFW for two administrative days to be characterized as a 'legislative meeting' in Madison [Wisconsin]." *Id.* at 6-7. PFFW states that the "legislative meeting" contributions was adopted in order to reduce, if not eliminate, the financial burden to Board members who made the larger contributions to FIREPAC instead of paying the registration fee to IAFF. *Id.* at 7. During

Lance A. Hanson was an Executive Board officer at the time the unlawful reimbursement scheme was created.

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- 1 similar retreats held during January or February of each successive year with the exception of
- 2 2004 when the topic was apparently not raised PFFW designated similar "legislative meeting"
- 3 dates as a vehicle for the reimbursement of that year's FIREPAC contributions by Executive
- 4 Board officers.² Id. at 7.

5 PFFW asserts that the 2002 retreat was the first and last time that its Executive Board

6 discussed this repayment practice in any depth, and the practice continued until 2008, "without

7 legal review on operational analysis." Submission at 7. According to the declarations of the

Executive Reard officers, none of them considered the legal ramifications of the reimbursement

program under the Act or other laws, and most, if not all, of those who participated in the 2002

10 retreat had not seen IAFF or FIREPAC materials advising not to seek reimbursement for

contributions in connection with attendance at the legislative conference. Id. at 7; see also

12 Declarations.

PFFW argues that the 2002 agreement was not the product of any pre-retreat planning by any officer and there was no specific discussion about whether such practices complied with applicable laws or IAFF policies. Submission at 14. Nevertheless, all of the PFFW officers acknowledge that they made false claims for the reimbursement of expenses from fictitions "legislature meetings" as a measure obtain reimbursement of FIREPAC contributions.

In 2008, Michael Wondzicke replaced Righard Gale as PFFW President. Stremission at 7. In preparation for the 2009 retreat, Woodzicka reviewed PFFW's practices and procedures, as well as IAFF legislative conference registration materials stating that contributions to FIREPAC could not be reimbursed with union funds. Submission at 8; see also Woodzicka Declaration at

² Although there were no designated "legislative meeting" dates in 2004, and therefore no reimbursements for contributions, the omission was noted at the 2005 retreat and the officers agreed to designate three days, rather than the summary two days, of "legislative meetings" in 2005 to compensate for the 2004 omission. *Id.* at 7.

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- ¶ 13. Woodzicka stopped the practice of making reimbursements for non-existent meetings
 because it was an "unwritten practice" and he believed that "there should be clear policies to
 ensure that Executive Board members were fairly reimbursed for legitimate expenses that they
- 4 actually incurred on the PFFW's behalf." Id. Although Woodzicka ended the practice of
- 5 scheduling fictitious legislative meetings in 2008, PFFW did not take any corrective action or
- 6 consider self-reporting the improper reimbursements for more than a year.

B. 2009-2010 Reimbursements

During the course of preparing this Subrassion, PFFW learned that it also had reimbursed three Executive Board officers -- Baird, Gee, and Hanson -- for \$1,375 in FIREPAC contributions made in 2009-2010. Submission at 10. Baird, Gee, and Hanson state that they made \$500 contributions each to FIREPAC in March 2009 and February 2010 in connection with the 2009 and 2010 IAFF legislative conferences. By making the \$500 contributions to FIREPAC, IAFF waived their registration fees. However, Baird, Gee, and Hanson submitted expense claims requesting reimbursement of the conference registration fees they had not actually paid in order to be reimbursed for their contributions. *Id.* at 10-11; *see also* Baird, Gee, and Hanson Declarations. PFFW admits that it effectively reimbursed these 2009-2010 FFREPAC contributions, but asserts that no Executive Beauth officer, other than the three officers submitting the claims, was aware that the \$425 and \$475 registration fees had not been paid. *Id.* at 2, 10-11.

C. Corrective Actions

In January 2010, Joseph Conway, an IAFF Vice-President, advised PFFW that he had learned of PFFW's improper reimbursements of FIREPAC contributions, and he asked what corrective actions PFFW would take. Submission at 16. In March 2010, PFFW consulted with

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- 1 counsel and established a "Special Committee" to review the expense payment practices and
- 2 recommend a course of action. Id. After the Special Committee concluded its review, PFFW
- 3 sent letters on April 10, 2010, to each of the eleven past and current Executive Board officers
- 4 itemizing the amounts known to have been reimbursed between 2004 and 2008, inviting any
- 5 corrections, asking for estimates of reimbursements between 2002 and 2003, and requesting
- 6 repayment of all contribution reimbursements. 3 Id. at 9; see also Submission Attachments. All
- 7 eleven Executive Bonni officers repaid at land the specific sums remasted, and some raid
- 8 additional amounts to reflect 2002 and 2003 contribution reimbursements. 4 Id

D. Summary

PFFW's payments to reimburse Executive Board officers for FIREPAC contributions are

11 summarized below.

Executive Board Officers	Estimated Officer Reimbursement Amts. for 2002 and 2003	Officer Reimb. Amts. for 2005-2008	Officer Reimbursement Amts. for 2009-2010	Total repayment amts for 2002-2010
Aldrich	\$0	\$1,027.70	n/a	\$1,027.70
7.7JL 11				
Drury	\$637.71	≨ ,162.29	\$0	\$3,000
: 11		0.0.76744.66	THE	\$1,900
Gee	\$443.66	\$1,956.34	\$475	\$2,875
i#Edke	3502,50	.gugi(#[1)		(e)5.03
Hanson	\$131.1 t	\$2,068.89	\$475	\$2,675
(4) (e)	301	75/5	W.C.	3561
Orlando.	n/a	\$678.45	n/a	\$678.45
-11/10/		2322(34)	11. — 194	<u> क्रिकारिया</u>
Woodzicka	\$56.53 <i>5</i> 7	\$1,100	\$0	\$1,156.53
TOTALS	\$2,497.42	\$14,391.02	\$1,375	\$18,263.34

³ PFFW is unable to provide the exact reimbursement figures for 2002 and 2003 because in 2009, it shredded its pre-2005 financial records, including the expense statements submitted by PFFW officers. *Id.* at 8. While PFFW has the electronic Quickbook files for those years, they only record payments and not explanations of the purposes of payments to officers or others. *Id.* PFFW asserts that it shredded documents on the advice of its accountant, the shredding had nothing to do with the expense payment practice, and it happened before the internal review. *Id.*

⁴ PFFW initially requested repayments from officers totaling \$14,193 but received a total of \$18,263.44 in repayments from those individuals. The interested amounts represents the reinflursament amounts totaling \$2,497.42 from individual Executive Roard infliners when lead their cave abovernmentalists or satisfactions of calculations as to cause PFFW to reinfluence FIREPAC centributions made in 2009-2010.

III. <u>LEGAL ANALYSIS</u>

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2 The Federal Election Campaign Act of 1971, as amended ("Act") prohibits a labor 3 organization from making a contribution in connection with any election and any officer of any 4 labor organization from consenting to any contribution by the labor organization. 2 U.S.C. 5 § 441b(a) and 11 C.F.R. 114.2(e). The Act further provides that "no person shall make a contribution in the name of another person." 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(i). The 6 7 promibition entraids to knowingly permitting one's name to be used to effect the making of 8 contribution in the name of another or knowingly helping or assisting any remon in making a 9 contribution in the name of another. 11 C.F.R. § 110.4(b)(ii) and)(iii). The Commission's 10 Explanation and Justification ("E&J") states that "knowingly helping or assisting" applies to 11 "those who initiate or instigate or have some significant participation in a plan or scheme to make a contribution in the name of another " E&J for 11 C.F.R. § 110.4 at 54 Fed. Reg. 12 13 34,105 (Aug. 17, 1989). 14 The Act also addresses violations of law that are knowing and willful. See 2 U.S.C. 15 §§ 437g(a)(5)(B) and 437g(d). The knowing and willful standard requires knowledge that one is 16 violating the law. Federal Election Commission v. John A. Dramesi for Congress Committee, 17 640 F. Supp. 983, 987 (D. N.J. 1986). A knowing and willful violation may be entablished "by proof that the defendant acted deliberately and with knowledge that the representation was 18 false." United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). Evidence does not have to 19 20 show that the defendant had a specific knowledge of the regulations; an inference of knowing 21 and willful conduct may be drawn from the defendant's scheme to disguise the source of funds 22 used in illegal activities. Id. at 213-15.

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PFFW & Executive Board Officers/Conduits

The expense reimbursement scheme that PFFW began in 2002 designated two days per 3 year for "legislative meetings" that never took place and allowed the Executive Board officers to 4 be reimbursed for their FIREPAC contributions by claiming expenses incurred in connection 5 with these fictional meetings. Submission at 6-7. Between 2002 and 2008, PFFW disbursed \$16,888.34 to reimburse FIREPAC contributions. Id. at 3. In addition, between 2009 and 2010, 6 7 PFFW disbursed \$1,375 to mimburse FIREPAC countributions. Id. at 10-12. 8 The individual respondents were afficers of PFFW who consented to the use of 9 prohibited labor union treasury funds to reimburse FIREPAC contributions, allowed their names 10 to be used to make these contributions, and knowingly helped or assisted in the making of 11 contributions in the names of others. While the Commission frequently takes no action as to 12 subordinate conduits responding to pressure from their employer/superior, the Commission has 13 pursued officers who consented to and assisted in the use of corporate or union funds to make reimbursements. 5 See MUR 5357 (Centex) (the Commission approved reason to believe 14 15 findings against the corporation and the officers for making and consenting to the use of 16 prohibited funds to make contributions in the names of others). 17

Accordingly, the Commission found senson to believe that Lance A. Hanson violated 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. §§ 110,4(b)(ii) and (iii) and 114.2(e) by consenting to the use of prohibited labor union treasury funds to make contributions in the names of others, by permitting his/her name to be used to make contributions in the name of another, and by

⁵ There is no information that these officers were coerced into agreeing to this scheme. In fact, it appears that there were some Executive Board officers who urver participated in the reimbursument scheme. The Submission states that at different times between 2002 and 2008, there were four additional Executive Board officers who did not seek reimbursement payments under the expense payment practice. Submission at 16. However, the Submission does not identify these individuals and is silent as to whether they consented to the use of the union's treasury funds to make contributions in the name of another. Id. Given the circumstances, including the impending statute of limitations, the Commission declined to take any action as to these four unnamed Executive Board officers.

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knowingly helping or assisting the PFFW in the making of contributions in the names of others.

B. Knowing and Willful

1. 2002 through 2008 Reimbursement Scheme

The individual Executive Board officers concealed the 2002-2008 reimbursements by authorizing the officers to claim expenses for fictitious "legislative meetings." The individual officers claim there was no pre-planning or discussion about whether such practices would comply with the Act or IAFF policy. But, the Executive Board weat to considerable lengths to conseal the reimbursements over a member of years by all-trwing its officers to be missbursed for expense vouchers they knew were false. PFFW acknowledges that the Executive Board had the option of revising its existing policies to provide for legitimate reimbursement for the officers' time and efforts. Submission at 7. Instead, it chose a false method to reimburse itself for the FIREPAC contributions. Thus, even if Respondents were not aware of the Act's specific prohibitions, Respondents' use of fictitious "legislative meetings" to conceal the reimbursements strongly suggests they knew that the reimbursements were improper. United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990).

Accordingly, the Commission found that Lance Hanson's violations of 2 U.S.C. §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii) - (iii) and 114.2(e) from 2002 to 2008 were knowing and willful.

2. 2009; and 2010 Contribution Reimburnements

In 2009 and 2010, three Executive Board officers, including Lance Hanson, received contribution reimbursements after PFFW had ended its 2002-2008 expense payment practice.

These individuals caused PFFW to reimburse their FIREPAC contributions by claiming to have paid IAFF conference registration fees that had actually been waived.

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1 As Executive Board officers, these individuals caused PFFW to use prohibited labor 2 union general treasury funds to make contributions in the names of others and consented to the 3 use of those prohibited funds to make contributions in the names of others. In addition, these Executive Board officers permitted their names to be used to make contributions in the names of 4 5 others and knowingly helped or assisted PFFW to make those contributions in the names of 6 others. 7 PFFW's decision in late 2008 to stop the "legislative meetings" reimbursement scheme 8 should have put these three officers on notice that the EIREPAC contributions could not be 9 reimbursed. Although the three PFFW Executive Board officers did not pay the fees, they 10 appear to have believed that they were entitled to reimbursement of registration fees IAFF 11 waived as a result of the FIREPAC contributions nominally made from their personal funds. 12 PFFW acknowledges that its payment of these claims resulted in the reimbursement of the 13 FIREPAC contributions. Submission at 10 and attached Declarations. The three officers have 14 offered no reasonable explanation for their conduct. See Declarations. 15 Accordingly, the Commission found that Lance Hanson's violations of 2 U.S.C. 16 §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii) - (iii) and 114.2(e) for the 2010 contribution 17 reimbursement was knowing and willful.

1 2	FACTUAL AND LEGAL ANALYSIS
3	MUR 6515
5	RESPONDENT: Michael J. Woodzicka
6 7	I. <u>INTRODUCTION</u>
8	This matter originated with a sua sponte submission made to the Federal Election
9	Commission ("the Commission") by the Professional Fire Fighters of Wisconsin ("FFFW") and
10	certain individuals who served as PFFW Executive Board officers at different points between
11	2002 and 2010 (collectively referred to as "Respondents"). For the reasons not forth below, the
12	Commission found that there was reason to believe that the Professional Fire Fighters of
13	Wisconsin Executive Board officer Michael J. Woodzicka knowingly and willfully violated
14	2 U.S.C. §§ 441b(a) and 441f; and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) with respect to
15	federal contributions by PFFW from 2002 through 2008.
16	II. <u>FACTUAL SUMMARY</u>
17	PFFW, the statewide affiliate of the International Association of Fire Fighters ("IAFF"),
18	reimbursed eleven of its officers for \$18,263.34 in contributions to IAFF's separate segregated
19	fund, International Association of Firefighters Interested in Registration and Education PAC
20	("FIREPAC") between 2002-2010.
21	PFFW reimbursed the FIREPAC contributions in two ways. Between 2002 and 2008,
22	with the authorization of the full Executive Board, PFFW reimbursed eleven officers for
23	\$16,888.34 in FIREPAC contributions via claims they submitted for expenses related to fictition
24	"legislative meetings" in Madison, Wisconsin. Submission at 6-7. In 2009 and 2010, after the

fictitious "legislative meetings" scheme ended, without the knowledge of the full Executive

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submitted for expenses related to conference registration fees that they never actually paid.

PFFW represents that it has 1) obtained repayments of all known amounts of the

4 unlawfully reimbursed contributions; 2) notified its regional caucus and local unions about the

improper expense payment practices; 3) notified FIREPAC of the unlawful reimbursements; and

4) obtained the resignations of remaining Executive Board officers who received unlawful

contribution mimbursements.

A. The 2002-2002 Reimbursements

PFFW is governed by an eleven officer Executive Board, all of whom are full-time firefighters. The officers are elected to staggered three-year terms at annual IAFF/PFFW state conventions. Submission at 3. Michael Woodzicka was a PFFW Executive Board officer from 2005 to 2011. During a January 2002 leadership retreat, PFFW's then existing Executive Board encouraged its officers to increase their FIREPAC contributions to a level that would also allow them to attend the IAFF annual conference without paying a registration fee. *Id.* When some Executive Board officers expressed concern about their ability to afford larger contributions to FIREPAC, the Executive Board agreed that "any officer who made such a contribution in order to attend the legislative conference would be able to submit an expense statement to the PFFW for two administrative days to be characterized an a 'legislative meeting' in Madison [Wisconsin]." *Id.* at 6-7. PFFW states that the "legislative meeting" contrivance was adopted in order to reduce, if not eliminate, the financial burden to Board members who made the larger contributions to FIREPAC instead of paying the registration fee to IAFF. *Id.* at 7. During

¹ Michael J. Woodzicka was not an Executive Board officer at the time the unlawful reimbursement scheme was created

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similar retreats held during January or February of each successive year - with the exception of

2 2004 when the topic was apparently not raised - PFFW designated similar "legislative meeting"

3 dates as a vehicle for the reimbursement of that year's FIREPAC contributions by Executive

4 Board officers.² Id. at 7.

PFFW asserts that the 2002 retreat was the first and last time that its Executive Board discussed this repayment practice in any depth, and the practice continued until 2008, "without legal review or operational analysis." Submission at 7. According to the deplarations of the Executive Beard officers, none of them considered the legal ramifications of the reimbursement program under the Act or other laws, and most, if not all, of those who participated in the 2002 retreat had not seen IAFF or FIREPAC materials advising not to seek reimbursement for contributions in connection with attendance at the legislative conference. *Id.* at 7; see also Declarations.

PFFW argues that the 2002 agreement was not the product of any pre-retreat planning by any officer and there was no specific discussion about whether such practices complied with applicable laws or IAFF policies. Submission at 14. Nevertheless, all of the PFFW officers acknowledge that they made false claims for the reimbursement of expenses from fictitions "lugislative meetings" as a meast to obtain mainbursement of FIREPAC contributions.

In 2008, Minhaol Wonduicka replaced Richard Gale as PFFW President. Submission at 7. In preparation for the 2009 retreat, Woodzicka reviewed PFFW's practices and procedures, as well as IAFF legislative conference registration materials stating that contributions to FIREPAC could not be reimbursed with union funds. Submission at 8; see also Woodzicka Declaration at

² Although there were no designated "legislative meeting" dates in 2004, and therefore no reimbursements for contributions, the omission was noted at the 2005 retreat and the officers agreed to designate three days, rather than the customary two days, of "legislative meetings" in 2005 to compensate for the 2004 omission. *Id.* at 7.

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- 1 ¶ 13. Woodzicka stopped the practice of making reimbursements for non-existent meetings
- 2 because it was an "unwritten practice" and he believed that "there should be clear policies to
- 3 ensure that Executive Board members were fairly reimbursed for legitimate expenses that they
- 4 actually incurred on the PFFW's behalf." Id. Although Woodzicka ended the practice of
- 5 scheduling fictitious legislative meetings in 2008, PFFW did not take any corrective action or
- 6 consider self-reporting the improper reimbursements for more than a year.

B. Corrective Actions

In January 2010, Joseph Conway, an IAFF Vice-President, advised PFFW that he had learned of PFFW's improper reimbursements of FIREPAC contributions, and he asked what corrective actions PFFW would take. Submission at 16. In March 2010, PFFW consulted with counsel and established a "Special Committee" to review the expense payment practices and recommend a course of action. *Id.* After the Special Committee concluded its review, PFFW sent letters on April 10, 2010, to each of the eleven past and current Executive Board officers itemizing the amounts known to have been reimbursed between 2004 and 2008, inviting any corrections, asking for estimates of reimbursements between 2002 and 2003, and requesting repayment of all contribution reimbursements. *Id.* at 9; see also Submission Attachments. All eleven Executive Buard officers rapaid at leart the specific sums requested, and some paid additional amounts to reflect 2002 and 2003 contribution reimbursements. *Id.*

³ PFFW is unable to provide the exact roissituresmeat figures for 2002 and 2003 because in 2009, it shredded its pre-2005 financial records, including the expense statements submitted by PFFW officers. *Id.* at 8. While PFFW has the electronic Quickbook files for those years, they only record payments and not explanations of the purposes of payments to officers or others. *Id.* PFFW asserts that it shredded documents on the advice of its accountant, the shredding had nothing to do with the expense payment practice, and it happened before the internal review. *Id.*

⁴ PFFW initially requested repayments from officers totaling \$14,193 but received a total of \$18,263.44 in repayments from those individuals. The increased amount represents the minbursement amounts totaling \$2,497.42 from individual Executive Board officers who had their own documentation or estimates of reimbursements during

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C. Summary

2 PFFW's payments to reimburse Executive Board officers for FIREPAC contributions are

3 summarized below.

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Executive Board Officers	Estimated Officer Reimbursement Amts. for 2092 and 2003	Officer Reimbursement Amts. for 2005-2008	Officer Reimbursement Amts. for 2009-2010	Total amt. repaid by Officers for 2002- 2010
Aldrich		\$1,027.70	n/a	\$1,027.70
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Drury	\$837.71	\$2,162.29	\$0	\$3,000
in jte			L 300 This	
Gee	\$443.66	\$1,956.34	\$475	\$2,875
Linner	1 Sess 215	9 201 (100)	0.5	\$1,545,544
Hanson	\$131.11	\$2,068.89	\$475	\$2,675
รีมเปลี่ยนกับ			fills.	S\$ \$4
Orlando	n/a	\$678.45	n/a	\$678.45
7 acces			HEER	2.52 a 74a .
Woodzicka	\$56.53	\$1,100	\$0	\$1,156.53
TOTALS				
	\$2,497.42	\$14,391.02	\$1,375	\$18,263.34

III. LEGAL ANALYSIS

6 The Federal Election Campaign Act of 1971, as amended ("Act") prohibits a labor 7 organization from making a contribution in connection with any election and any officer of any labor organization from consenting to any contribution by the labor organization. 2 U.S.C. 8 9 § 441b(a) and 11 C.F.R. 114.2(e). The Act further provides that "no person shall make a 10 contribution in the name of antimer pomon." 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(i). The 11 prohibition extends to knowingly permitting one's name to be used to effect the making of 12 contribution in the name of another or knowingly helping or assisting any person in making a 13 contribution in the name of another. 11 C.F.R. § 110.4(b)(ii) and (iii). The Commission's Explanation and Justification ("E&J") states that "knowingly helping or assisting" applies to 14 15 "those who initiate or instigate or have some significant participation in a plan or scheme to

2002 and 2003 plus \$1,375 from individual Executive Board officers who used other means to cause PFFW to reimburse FIREPAC contributions made in 2009-2010.

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- 1 make a contribution in the name of another" E&J for 11 C.F.R. § 110.4 at 54 Fed. Reg.
- 2 34,105 (Aug. 17, 1989).
- The Act also addresses violations of law that are knowing and willful. See 2 U.S.C.
- 4 §§ 437g(a)(5)(B) and 437g(d). The knowing and willful standard requires knowledge that one is
- 5 violating the law. Federal Election Commission v. John A. Dramesi for Congress Committee,
- 6 640 F. Supp. 985, 987 (D. N.J. 1985). A knowing and willful violation may be established "by
- 7 proof that the defendant acted deliberately and with knowledge that the rapresentation was
- 8 false." United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). Evidence does not have to
- 9 show that the defendant had a specific knowledge of the regulations; an inference of knowing
- and willful conduct may be drawn from the defendant's scheme to disguise the source of funds
- used in illegal activities. Id. at 213-15.

A. PFFW & Executive Board Officers/Conduits

- 13 The expense reimbursement scheme that PFFW began in 2002 designated two days per
- 14 year for "legislative meetings" that never took place and allowed the Executive Board officers to
- 15 be reimbursed for their FIREPAC contributions by claiming expenses incurred in connection
- with these fictional meetings. Bubmission at 6-7. Between 2092 and 2008, PFFW disbursed
- 17 \$16,888.34 to azimhursa FIREPAC contributions. Id. at 3. In addition, between 2009 and 2010,
- 18 PFFW disbursed \$1,375 to estimburse FIREPAC contributions. Id. at 10-12.
- The individual respondents were officers of PFFW who consented to the use of
- 20 prohibited labor union treasury funds to reimburse FIREPAC contributions, allowed their names
- 21 to be used to make these contributions, and knowingly helped or assisted in the making of
- 22 contributions in the names of others. While the Commission frequently takes no action as to

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- subordinate conduits responding to pressure from their employer/superior, the Commission has
- 2 pursued officers who consented to and assisted in the use of corporate or union funds to make
- 3 reimbursements. 5 See MUR 5357 (Centex) (the Commission approved reason to believe
- 4 findings against the corporation and the officers for making and consenting to the use of
- 5 prohibited funds to make contributions in the names of others).

Accordingly, the Commission found reason to believe that Michael J. Woodzicka

violated 2 U.S.C. §§ 441h(a), 44if, and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) by

consenting to the use of prehibited information treasury funds to make contributions in the name

of others, by permitting his/her name to be used to make contributions in the name of another,

and by knowingly helping or assisting the PFFW in the making of contributions in the names of

11 others.

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B. Knowing and Willful

1. 2002 through 2008 Reimbursement Scheme

The individual Executive Board officers concealed the 2002-2008 reimbursements by authorizing the officers to claim expenses for fictitious "legislative meetings." The individual officers claim there was no pre-planning or discussion about whether such practices would comply with the Act or IAFF policy. But, the Executive Board went to considerable lengths to conceal the reimbursements over a number of years by allowing its officers to be reimbursed for expense vouchers they knew were false. PFFW acknowledges that the Executive Board had the option of revising its existing policies to provide for legitimate reimbursement for the officers'

There is no information that these officers were coerced into agreeing to this scheme. In fact, it appears that there were some Executive Board officers who never participated in the seimbursement scheme. The Submission states that at different times between 2002 and 2008, there were four additional Executive Board officers who did not seek reimbursement payments under the expense payment practice. Submission at 16. However, the Submission does not identify these individuals and is silent as to whether they consented to the use of the union's treasury funds to make contributions in the name of another. *Id.* Given the circumstances, including the impending statute of limitations, the Commission declined to take any action as to these feur unnamed Executive Board officers.

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- 1 time and efforts. Submission at 7. Instead, it chose a false method to reimburse itself for the
- 2 FIREPAC contributions. Thus, even if Respondents were not aware of the Act's specific
- 3 prohibitions, Respondents' use of fictitious "legislative meetings" to conceal the reimbursements
- 4 strongly suggests they knew that the reimbursements were improper. United States v. Hopkins,
- 5 916 F.2d 207, 214 (5th Cir. 1990).
- 6 Accordingly, the Commission found that Michael J. Woodzicka's violations of 2 U.S.C.
- 7 §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii) (iii) and 114.2(e) from 2002 to 2008 were
- 8 knowing and willful.